



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Precision Signal, Inc.

File: " B-250852.2

Date: April 12, 1993

Dr. Lester R. LeBlanc for the protester,
Justin P. Patterson, Esq., and Sherry Kinland Kaswell, Esq.,
Department of the Interior, for the agency.
Christina Sklarew, Esq., and Michael R. Golden, Esq., Office
of the General Counsel, GAO, participated in the preparation
of the decision.

DIGEST

Where solicitation lists several evaluation factors and states that a failure to meet any single requirement may render the proposal unacceptable notwithstanding its overall score and offeror provides no information to demonstrate compliance with at least one of the requirements, agency reasonably determined that the proposal was unacceptable in that area and excluded the firm from the competition on that basis.

DECISION

Precision Signal, Inc. protests the award of a contract to DataSonics under request for proposals (RFP) No. 1928, issued by the United States Geological Survey (USGS) for a subbottom seismic profiling system for obtaining data in the vicinity offshore of the California shelf and slope. Precision contends that certain specifications and evaluation criteria in the RFP were defective, challenges the technical evaluation of its own proposal, and objects to the pricing structure which it believes DataSonics offered.

We deny the protest.

The RFP was issued on August 10, 1992, as a brand-name or equal procurement, specifying the DataSonics CAP 6000A Chirp acoustic profiler as the preferred system. The RFP listed the salient characteristics that the profiler system must meet to be acceptable. Award was to be made to the offeror whose proposal, conforming to the solicitation, was determined to be most advantageous to the government, cost

or price and other factors considered. In making that determination, the agency would consider overall technical merit more important than price. The technical evaluation would be based on six factors, which were listed in the RFP in descending order of importance. The RFP provided that proposals were to be evaluated under the following factors:

"(1) Hardware and software's compliance with the listed salient characteristics;

(2) Technical and field data to support the system's compliance with the technical requirements;

(3) The offeror's ability to support USGS marine programs while at sea, i.e., rapid support capability to replace lost or damaged tow vehicles and cables, and system hardware/software/spare parts which have been damaged or have failed;

(4) The offeror's in-house capability to meet various software requirements;

(5) The systems sold by the offeror to date. Offerors shall provide a list of recent customers and the intended use of the system purchased.

(6) Offeror's ability to meet the required delivery schedule. The RFP cautioned offerors that a proposal might be deemed unacceptable if it failed to meet the stated minimum requirement of any one factor."

Precision and DataSonics submitted the only offers in response to the RFP. A technical evaluation committee evaluated both proposals. When the evaluation committee reviewed Precision's technical proposal, it found that the firm had not addressed the requirements of factor No. 3, for which it received no points, and that the proposal merited a low score in several of the other areas. The committee concluded that Precision's proposal was technically unacceptable. In contrast, DataSonics's proposal met all of the requirements with high scores in all areas. The committee recommended immediate award to DataSonics, without conducting discussions. The contracting officer concurred; award was made, and this protest followed.

Precision challenges the evaluation of its technical proposal, contending that the evaluation documents contain technical errors and that the agency lacked objectivity.¹

Our review of allegedly improper technical evaluations is limited to a determination of whether the evaluation was reasonable and consistent with the evaluation criteria. Polar Prods., B-242079, Mar. 27, 1991, 91-1 CPD ¶ 331.

We conclude that the agency reasonably determined that Precision failed to meet the requirements of evaluation factor No. 3. For this reason alone, Precision's offer was reasonably found unacceptable and award to DataSonics on the basis of its initial proposal was proper.

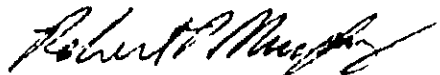
Under factor No. 3, the offeror was required to demonstrate its ability to support USGS marine programs while at sea, i.e., rapid support capability to replace lost or damaged tow vehicles and cables, and to replace system hardware/software/spare parts which have been damaged or have failed. Precision's proposal simply does not contain any information about the firm's capabilities in this regard. Its proposal does not address the requirement in any way. While the protester questions how the requirement could be satisfied by anyone, we have reviewed DataSonics's proposal. DataSonics did address its ability to meet this requirement to support sea operations and specifically to replace lost or damaged equipment to permit the operations to continue. DataSonics in fact discussed a recent example of its timely replacement of equipment damaged during a customer's operation at sea. In view of the RFP's provision that a proposal might be deemed unacceptable if it failed to meet the minimum requirements of any one evaluation factor, and

¹Precision also protests that the requirements expressed in evaluation factor No. 3 were "vague and nonspecific as to what was required." An offeror may not wait until after the closing time for receipt of initial proposals to object to the evaluation factors listed in the RFP. Our Bid Protest Regulations contain strict rules requiring timely submission of protests, and specifically require that protests based upon alleged improprieties in a solicitation that are apparent prior to the closing time for receipt of initial proposals must be filed prior to the closing time. 4 C.F.R. § 21.2(a)(1) (1992); Engelhard Corp., B-237824, Mar. 23, 1990, 90-1 CPD ¶ 324. Precision's objection that the evaluation factor was vague, raised after the award had been made, is untimely and will not be considered further. In any event, we think the factor was clear as to the agency's requirement.

our determination that it was reasonable for the agency to conclude that Precision's proposal was unacceptable under evaluation factor 3, the agency properly rejected Precision's proposal as technically unacceptable.

Precision also protests that DataSonics's offer included a credit for a recent lease of the same equipment to USGS which allowed DataSonics to offer a lower price than the protester. Since Precision's proposal properly was found technically unacceptable, the question of whether DataSonics's price improperly included a credit is irrelevant. DataSonics submitted the only technically acceptable offer; therefore, price was not determinative of the award. TDA Joint Venture, B-245361, Jan. 2, 1992, 92-1 CPD ¶ 2.

The protest is denied.


for James F. Hinchman
General Counsel